IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-08-2006

CORAM :

THE HONOURABLE MR.JUSTICE A. KULASEKARAN

W.P. No. 5969 of 2006
and
W.P.M.P. No. 6452 of 2006

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Jayanthilal G. Surana .. Petitioner

Versus

1. Chennai Metropolitan Delvelopment
Authority
rep. by its Member-Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai - 600 008

2. The Chief Administrative Officer
for Air Officer Commanding Station
Administrative Section
I.A.F. Station, Tambaram
Chennai - 600 040

3. Head Quarters Training Command
I.A.F. Bangalore

(RR2 & 3 were impleaded as per
order dated 22.06.2006 made in
WPMP No. 16380 of 2006) .. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus as stated therein.

For Petitioner : Mr. R. Mohan
For Respondents : Mr. J. Ravindran for R1
Mr. M.T. Arunan, ACGSC for RR2 & 3

ORDER

The prayer in this Writ Petition is for a Writ of Mandamus directing the respondent herein to consider the petitioner's application for layout proposal of house site comprised in Survey Nos. 80/3, 80/4, 80/6B, 80/12 and 80/14 of Thiruvancheri Village, Tambaram Taluk and issue the petitioner plan approval for the same forming part of file No.L1/10394/05 pending with the respondent without insisting upon N.O.C. form Indian Air Force Authorities within a reasonable time.

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2. It is stated that the petitioner has applied for layout approval with the Commissioner, St. Thomas Mount Panchayat Union at Chitlapakkam on 06.04.2005 in respect of house sites comprised in Survey Nos. 80/3, 80/4, 80/6B, 80/12 and 80/14 of Thiruvancheri Village, Tambaram Taluk, which was forwarded to the first respondent on 11.04.2005 for taking further action. On receipt of the said application, the first respondent has addressed a letter to the second respondent on 06.09.2005 to issue No Objection Certificate, but the second respondent has not responded till date, hence the present writ petition has been filed.

3. Mr. Arunan, learned Central Government Standing counsel appearing for the respondents 2 and 3, relying on the counter submitted that the respondents 2 and 3 are not competent to issue No Objection Certificate as required by the first respondent, but the construction is prohibited within 900 meters from the crest of the outer parapet of IAF aerodrome and installations and as per S.R.O. No. 93 dated 22.05.2001 which was published in the official gazzette, the construction of any building, excavations of any height or depth within 900 meters around the air field is restricted. Beyond that distance, it is open to the first respondent to pass appropriate orders.

4. It is pointed out by the learned counsel for the petitioner that the respondents 2 and 3 have not whispered anything in their counter as to whether they have published any notification in the Government of India Official Gazzette as required, however, the learned counsel appearing for the petitioner submitted that if so, the first respondent may be directed to approve the layout beyond 900 meters from the crest of the outer parapet of IAF aerodrome and installations.

5. This Court carefully considered the argument of the counsel on either side. In the counter affidavit filed by the respondents 2 and 3, it is no where mentioned whether such notification is published in the Government Gazzette in the said vicinity where the petitioner's property is located. As pointed out by the learned counsel for the petitioner, if the lands of the petitioner is situate beyond 900 meters from the crest of the outer parapet of IAF aerodrome and installations or away from prohibited distance, the first respondent shall consider the approval of layout, otherwise inform it to the petitioner and directed accordingly. The respondents 2 and 3 are also directed to take steps to publish in the official gazzette, if not published already, within a period of eight weeks from the date of receipt of a copy of this order to avoid causing inconvenience to the general public in this regard.

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6. The writ petition is disposed of in the above terms. No costs. Consequently, connected WPMP is closed.

rsh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Member-Secretary
   Chennai Metropolitan Delvelopment
   Authority
   No.1, Gandhi Irwin Road
   Egmore, Chennai - 600 008

2. The Chief Administrative Officer
   for Air Officer Commanding Station
   Administrative Section
   I.A.F. Station, Tambaram
   Chennai - 600 046

3. Head Quarters Training Command
   I.A.F. Bangalore

+ 1 cc to Mr. R. Mohan, Advocate SR No. 38639

+ 1 cc to Mr. J. Ravindran, Advocate SR No. 39208

PV(CO)
SR/13.9.2006

WP No. 5969 of 2006

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